

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, *et al.*

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

CASE NO. 2:23-cv-01495-JHC

**JOINT MOTION FOR ENTRY OF
ORDER RESOLVING PLAINTIFF
FTC'S MOTION FOR LEAVE TO
TEMPORARILY SEAL THE
COMPLAINT**

NOTE ON MOTION CALENDAR:
Friday, October 6, 2023

Pursuant to Local Civil Rule 5(g), 15 U.S.C. § 57b-2, and 16 C.F.R. § 4.10(g), Plaintiff Federal Trade Commission ("FTC") and Defendant Amazon.com, Inc. ("Amazon") jointly move the Court for an Order resolving the FTC's Motion for Leave to Temporarily Seal the Complaint (the "Original Motion," Dkt. #2). In support of this Joint Motion, the FTC and Amazon state as follows:

1. On September 26, 2023, the FTC filed under seal an unredacted version of the Complaint. Dkt. #3.

2. As stated in the Original Motion, the FTC is not permitted to publicly file information received from Amazon or third parties in response to compulsory process or

1 designated as confidential until the FTC has provided producing parties “an opportunity to seek
2 an appropriate protective or *in camera* order.” 16 C.F.R. § 4.10(g).

3 3. In the sealed, unredacted Complaint, the FTC filed under seal information that
4 Amazon and third parties produced in response to compulsory process or was designated by the
5 producing parties as confidential. In order to afford producing parties an opportunity to seek a
6 protective order, or permanent sealing order, under 16 C.F.R. § 4.10, the FTC sought leave to
7 temporarily seal the Complaint. Dkt. #2.

8 4. The FTC and Amazon agree that there are compelling reasons for the Court to
9 enter the attached Proposed Order, which maintains a temporary seal over the sealed Complaint,
10 while allowing producing parties until October 27, 2023 to file a motion to permanently seal any
11 portion of the sealed Complaint. In particular, under Local Civil Rule 5(g)(3)(B), such a
12 temporary seal protects “legitimate private or public interests,” and no “less restrictive
13 alternative” exists, because the procedure agreed upon by the parties allows for efficient
14 resolution of producing parties’ effort to keep materials sealed. The Court has authority to seal
15 the Complaint in such circumstances. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172,
16 1178 (9th Cir. 2006).

17 5. Further, the Proposed Order specifically unseals any portions of the Complaint
18 that a party has not sought to seal on a permanent basis by October 27, 2023.

19 6. The FTC has consulted with all other Plaintiffs, none of whom object to the
20 procedure that the FTC has proposed.

21 7. Pursuant to Local Civil Rule 5(g)(3)(A), the undersigned counsel certify that they
22 met and conferred to reach the agreement described in this Joint Motion. Among other efforts,
23 the following attorneys conferred by videoconference on October 4, 2023: Edward H.

Takashima, Susan A. Musser, David B. Schwartz, and Danielle C. Quinn for the FTC, and Kevin Hodges and Constance Forkner for Amazon.

Dated: October 6, 2023

Respectfully submitted,

s/ Edward H. Takashima

SUSAN A. MUSSER (DC Bar # 1531486)
EDWARD H. TAKASHIMA (DC Bar # 1001641)
DAVID B. SCHWARTZ (NY Reg. # 4947925)
DANIELLE C. QUINN (NY Reg. # 5408943)
Z. LILY RUDY (DC Bar # 1023073)
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Telephone: (202) 326-2122 (Musser)
(202) 326-2464 (Takashima)

Email: smusser@ftc.gov
etakashima@ftc.gov
dschwartz@ftc.gov
dquinn@ftc.gov
zrudy@ftc.gov

*Attorneys for Plaintiff
Federal Trade Commission*

MORGAN, LEWIS & BOCKIUS LLP

By: s/ *Patty A. Eakes*
Patty A. Eakes. WSBA #18888
Molly A. Terwilliger, WSBA #28449
1301 Second Avenue, Suite 2800
Seattle, WA 98101
Phone: (206) 274-6400
Email: paaty.eakes@morganlewis.com
Molly.terwilliger@morganlewis.com

WILLIAMS & CONNOLLY LLP

Heidi K. Hubbard (admitted *pro hac vice*)
Kevin M. Hodges (admitted *pro hac vice*)
680 Maine Avenue, SW
Washington, DC 20024
Phone: (202) 434-5000
Email: hhubbard@wc.com
khodges@wc.com

COVINGTON & BURLING LLP

Thomas O. Barnett (admitted *pro hac vice*)

One City Center
850 Tenth Street, NW
Washington, DC 20001-4956
Phone: (202) 662-5407
Email: tbarnett@cov.com

Attorneys for Defendant Amazon.com, Inc.

I certify that this memorandum contains
427 words, in compliance with the Local Civil
Rules.